

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

MINERVA MARTINEZ,

Complainant,

and

**MAYUBA BOOKSTORES, INC., d/b/a
BARBARA'S BOOKSTORE,**

Respondent.

Charge No.: 2009CF2091

EEOC No.: 21BA90869

ALS No.: 10-0406

RECOMMENDED ORDER AND DECISION

On May 26, 2010, the Illinois Department of Human Rights (IDHR) filed a complaint on behalf of Complainant, Minerva Martinez. That complaint alleged that Respondent, Mayuba Bookstores, Inc., d/b/a Barbara's Bookstore, discriminated against Complainant on the bases of her sex, related to pregnancy, and her ancestry when it reduced her hours and discharged her.

This matter now comes on to be heard on my own motion, *sua sponte*, to dismiss the complaint for want of prosecution. Despite being warned of the possibility of dismissal, Complainant has failed to appear at two consecutive status hearings. She has filed nothing to explain her absence. Her actions have unreasonably delayed the proceedings in this matter.

The IDHR is an additional statutory agency that has issued state actions in this matter. The IDHR is therefore named herein as an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. The complaint in this matter was served upon Complainant by certified mail through the United States Postal Service. Complainant signed the certified mail receipt on June 12, 2010.

2. The initial status date in this matter was August 19, 2010. Neither party appeared, and nothing was filed to explain either party's absence. An order was entered that set a new status date of September 23, 2010. That order was served upon the parties by first class mail.

3. On September 23, 2010, neither party appeared. Nothing was filed to explain either party's absence.

CONCLUSIONS OF LAW

1. Complainant's repeated and unexplained failure to appear at scheduled status hearings has unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, the complaint in this matter should be dismissed with prejudice.

DISCUSSION

Complainant has done absolutely nothing to prosecute her claim since the IDHR filed the complaint in this matter. There is no question that she should have known she had to appear. She signed the certified mail receipt when the complaint was served upon her. Moreover, she was served by mail with the order setting a status date on September 23, 2010 and that mail was not returned to the Commission. Two consecutive status hearings have been held, but Complainant has neither appeared nor filed anything to explain her absence. Her inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned her claim. As a result, it is appropriate to dismiss her claim with prejudice. See, e.g., ***Leonard and Solid Matter, Inc.***, IHRC, ALS No. 4942, August 25, 1992.

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that the complaint in this matter and the underlying charge of

discrimination be dismissed in their entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: September 27, 2010